# 1NC

### 1

#### Interpretation –

#### Judicial restrictions are Court review

Kavanaugh 12 (Brett Kavanaugh Federal Circuit Judge from the D.C. Circuit, “War, Terror, and the Federal Courts, Ten Years After 9/11,” American University Law Review Volume 61, Issue 5, Article 1)

Judge Kavanaugh: I think I’d start again, from the big picture, which is that courts review Executive action in times of war. That’s the lesson of Hamdi and Hamdan and Youngstown, 32 and you can go throughout our history, it’s been reinforced strongly by the Supreme Court. The courts will enforce statutory restrictions on the President’s conduct of war as well. And separately, the Executive Branch and Congress should, as I said upfront in my concurrence, should pay attention to international law obligations when thinking about what to put in the statutes. And when the Executive Branch is exercising its discretion pursuant to an authorization for the use of military force, or the President’s Article II authority. So courts have a role and Congress and the Executive should pay attention, close attention of course, to international law principles. Congress, on many occasions, has taken international law principles and put them into federal statutes, sometimes directly, by borrowing from the principle that’s at hand, sometimes by just having a reference, as in Hamdan, to international law or the laws of war more generally or the law of nations more generally.

#### Statutory restrictions are congressional laws that limit authority

Kershner 10 (Joshua, Articles Editor, Cardozo Law Review. J.D. Candidate (June 2011), Benjamin N. Cardozo School of Law, “Political Party Restrictions and the Appointments Clause: The Federal Election Commission's Appointments Process Is Constitutional” Cardozo Law Review de novo 2010 Cardozo L. Rev. De Novo 615)

The process by which the President fills an Executive Branch position is governed by the Appointments Clause: [The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. n81 This process is divided into three phases: (1) Congress creates an Executive Branch position by statute; n82 (2) the President nominates an individual to fill the position; n83 and (3) the Senate confirms the nominee. n84 The Clause covers a specified list of positions and the generic "other Officers of the United States." n85 The Clause controls who nominates, appoints, and confirms an individual for such a position. n86 Finally, the Clause defines a separate process for inferior officers. n87 It should be noted, however, that the Appointments Clause limits but does not empower Congress to create positions. n88 That power comes from the Necessary and Proper Clause. n89 The House of Representatives has no role in the process of nomination and appointment and is specifically not mentioned in the [\*626] Appointments Clause. All of the powers contained in the Appointments Clause are reserved to the President, the Senate, or both. n90 The Appointments Clause makes a distinction between the power to nominate and the separate power to appoint. The power of nomination is textually reserved to the President of the United States, n91 whereas the power of appointment is shared by the President and the Senate. n92 Statutory restrictions violate the plain text of the Appointments Clause because the very act of passing a statute requires the involvement of the House of Representatives. n93 Statutory restrictions on the appointments process are further problematic because the Appointments Clause's power to nominate is vested solely in the President. n94 Those statutory restrictions that limit the President's power to nominate violate the plain text of the Clause. n95 Where the Constitution provides a clear procedural process, the Supreme Court has consistently applied strict principles of formalism, construing the text so as to limit, rather than expand, the powers of the various branches of government. n96 The Senate's role in the appointments process is the final confirmation of a nominee. n97 The "advice and consent" of the Senate applies only to the appointment power. n98 The President and the Senate have interpreted advice as non-binding guidance, and have interpreted [\*627] consent as the act of confirmation. n99 Thus, the Appointments Clause gives the Senate only the narrow function of confirming nominees. n100

#### Violation – they affirm the topic through the opening of non-isomorphic subjects, agents, and territories of stories unimaginable from the vantage point of the cyclopean, self-satiated eye of the master subject and not through the topic mechanism

#### Vote Neg –

#### Limits – there are an infinite number of ways to say that each part of the topic could be bad – multiple criticisms of drones, the military, and detention all mean that the research burden is multiplied indefinitely – the only source of guaranteed offense is through the legal method of the resolution

#### Education – the resolutional question is whether the courts or congress should restrict the president – anything else avoids the question and muddles our understanding of war powers authority – turning case

JANE STROMSETH, PROFESSOR OF LAW, GEORGETOWN ¶ UNIVERSITY LAW CENTER, WASHINGTON, D.C. [Senate Hearing 107-892]¶ [From the U.S. Government Printing Office]¶ APRIL 17, 2002¶ Serial No. J-107-74¶ APPLYING THE WAR POWERS RESOLUTION TO THE WAR ON TERRORISM¶ HEARING¶ before the¶ SUBCOMMITTEE ON THE CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS¶ of the¶ COMMITTEE ON THE JUDICIARY¶ UNITED STATES SENATE¶ ONE HUNDRED SEVENTH CONGRESS¶ SECOND SESSION¶ http://www.gpo.gov/fdsys/pkg/CHRG-107shrg85888/html/CHRG-107shrg85888.htm

Fourth, historical practice has not fundamentally altered how we should understand the Constitution's allocation of war powers today. ¶ Practice, of course, cannot supplant or override the clear requirements ¶ of the Constitution, which gives the power to declare war to Congress. ¶ Furthermore, of the dozen major wars in American history, five were ¶ formally declared by Congress and six were authorized by other ¶ legislative measures.\3\ There is, to be sure, a pattern of practice ¶ involving more limited Presidential uses of force falling short of ¶ major national conflicts, a substantial number of which involved the ¶ protection or rescue of U.S. nationals caught up in harm's way. For ¶ example, of the 200 or so cases sometimes cited as examples of ¶ unilateral commitments of force by the President, nearly 70 involved ¶ the protection or rescue of U.S. nationals, actions far short of ¶ deliberate war against foreign countries and reasonably covered by the ¶ President's authority to respond to sudden threats. A number of other ¶ operations were interventions or peace enforcement actions that aimed ¶ at limited goals. Others involved more far-reaching objectives, ¶ however, even if the risks were relatively low. In some of these cases, ¶ like Haiti, for instance, Congress protested unilateral actions taken ¶ by the President and made clear its view that its authorization should ¶ have been sought in advance.\4\ My basic point is this: one must be very cautious in drawing broad conclusions about Presidential power from a numerical list of cases. These instances each have to be examined carefully, and the authority claimed by the President and Congress's reaction fully assessed.\5\ Ultimately, however, whatever ¶ conclusions one comes to concerning the constitutional implications of ¶ small-scale Presidential actions undertaken without congressional ¶ authorization, the fact remains that major wars have been authorized by ¶ Congress.

### 2

#### Interpretation – Authority refers to permission granted – power refers to ability to do things

Taylor, 1996 (Ellen, 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### Violation – The affirmative restricts the president’s ability to do something but not his permission to do that

#### Vote Neg –

#### Limits – there are a ton of ways to prevent the president from doing something without removing his authority – their interp opens the door to affs about assassination’s or signature strikes as well as aff’s that limit funding to the military

#### Ground – predictable ground is based in removing the presidents permission to do something – perception disads as well as presidential flexibility are core topic arguments that they eliminate – makes actual topic education impossible

### 3

#### The United States federal government should limit the scope of drone warfare to targeted killing operations.

#### Signature strikes miss key leaders, cause blowback, prevent cooperation, and destroys state legitimacy- increases surveillance solve them all

**Greenfield 8-19**-13 [Danya, deputy director of the Rafik Hariri Center for the Middle East at the Atlantic Council, where she leads the Yemen Policy Group, “The Case Against Drone Strikes on People Who Only 'Act' Like Terrorists,” <http://www.theatlantic.com/international/archive/2013/08/the-case-against-drone-strikes-on-people-who-only-act-like-terrorists/278744/>]

As Mark Bowden discusses in this month's Atlantic cover story, there is great debate about whether drone strikes should be a core component of the U.S. counterterrorism strategy. Of all the the arguments in favor, those those emphasizing effectiveness of signature strikes are particularly dubious. The term "signature strike" is used to distinguish strikes conducted against individuals who "match a pre-identified 'signature' of behavior that the U.S. links to militant activity," rather than targeting a specific person. The United States should not allow signature strikes because the cost of these attacks far outweighs the potential benefit. Leaving aside significant concerns about the legality of such strikes, there are serious questions about the efficacy of this approach in undermining terrorist networks.¶ The problem with signature strikes is that they open the door to a much higher incidence of civilian casualties--and this is where the danger lies. If the United States is choosing targets based on suspicious activity or proximity to other known-terrorists, this falls short of the threshold for drone strikes set by the Obama Administration, perpetuates a disastrous U.S. image in Yemen, and serves to invigorate the ranks of those groups the United States aims to disable. ¶ In response to increasing criticism, President Obama outlined his counterterrorism policy in May 2013 with a speech at National Defense University. Obama noted that the U.S. will only act against "terrorists who pose a continuing and imminent threat to the American people, and when there are no other governments capable of effectively addressing the threat." He did not, however, directly address the use of signature strikes, leaving open the prospect that they could be used in the ongoing fight against terrorism. This would be a mistake. In Pakistan and Afghanistan, extensive signature strikes sparked a significant increase in anti-American sentiment. After years of drone strikes, 74 percent of Pakistanis considered the U.S. an enemy by 2012 (up from 64 percent in 2009) according to a Pew Research Center poll. The White House authorized signature strikes for Yemen, but U.S. officials insist that they have not employed this tactic to date. If true, the incidence of civilian and non-combatant casualties in Yemen means that faulty intelligence and targeting failures are to blame, which is perhaps even more worrisome.¶ In waging the drone campaign, the United States occasionally hits precisely the wrong person. A U.S. strike in August 2012 supposedly killed three al-Qaeda militants in Yemen. Among the casualties, however, was an anti-Qaeda imam and a policeman he had brought along for protection. The imam was working to dismantle al-Qaeda in the Arabian Peninsula (AQAP), making him precisely the sort of local ally the U.S. desperately needs in a place like Yemen. Yemeni Nobel Prize laureate Tawakkul Karman warned that Yemeni tribal leaders in areas where civilians have been killed in drone strikes say that these attacks drive more Yemenis to turn against Washington. During his testimony to the Senate Judiciary Committee, Yemeni writer Farea al-Muslimi recounted an incident where the eldest son of a man killed by a drone joined AQAP because he identifies the U.S. as his father's killer and wants revenge. As the deaths and injuries mount, dangerous anti-American sentiment grows. When drone strikes occur and non-combatants are killed, Yemenis lash out with protests demanding justice and accountability from the United States--which has not been forthcoming.¶ In a place like Yemen, although the American drone program is universally hated, many Yemenis will admit they would support targeted assassinations if there is clear intelligence that an individual is a senior operative within AQAP and plotting a specific and imminent act of terror against Americans. The problem with signature strikes is that they do not meet this threshold--not even remotely-- and they open the door for the U.S. to make grievous targeting mistakes and be seen as taking sides in a domestic insurgency. Signature strikes target low-level militants who might be nasty characters, but they are not necessarily planning an imminent act of terror or hold a leadership position.¶ Beyond signature strikes, there is a more fundamental question that we should be asking--a question of overall strategy: is the current drone program achieving our national security objectives? It is not just civil libertarians and human rights advocates that are sounding the alarm; a group of 30 foreign policy experts sent a letter to President Obama in March 2013 calling for an end to the current drone strategy. Even senior retired members of the military, including General Stanley McChrystal, believe drone strikes are counterproductive because of the blowback they foment among the local population.¶ Targeted killings may eliminate key al-Qaeda leaders, but when civilians die along with them, these strikes ensure that a generation of Yemenis, Pakistanis, or Somalis will blame the U.S. for killing innocent community members, exacerbating America's serious image problems abroad and creating a space for extremist ideology to take root. In short, the U.S. drone program not only undermines the long-term national security of the United States by fostering widespread anti-U.S. sentiment, it also undermines the legitimacy of the host country government, whose support the U.S. needs, and it provides fodder for jihadi rhetoric that strengthens the very groups the U.S. seeks to destroy.

#### The counterplan is competitive and is a damning alt cause they can’t topically solve - signature strikes are a DISTINCT SUBSET from targeted killing

David Hastings Dunn (Reader in International Politics and Head of Department in the Department of Political Science and International Studies at the University of Birmingham, UK) and Stefan Wolff (Professor of International Security at the University of Birmingham in the UK) March 2013, “Drone Use in Counter-Insurgency and Counter-Terrorism: Policy or Policy Component?,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

Yet an important distinction needs to be drawn here between acting on operational intelligence that corroborates existing intelligence and confirms the presence of a specific pre-determined target and its elimination – so-called ‘targeted strikes’ (or less euphemistically, ‘targeted killings’) – and acting on an algorithmic analysis of operational intelligence alone, determining on the spot whether a development on the ground suggests terrorist activity or association and thus fulfils certain (albeit, to date, publicly not disclosed) criteria for triggering an armed response by the remote pilot of a drone – so-called ‘signature strikes’.6¶ Targeted strikes rely on corroborating pre-existing intelligence: they serve the particular purpose of eliminating specific individuals that are deemed crucial to enemy capabilities and are meant to diminish opponents’ operational, tactical and strategic capabilities, primarily by killing mid- and top-level leadership cadres. To the extent that evidence is available, it suggests that targeted strikes are highly effective in achieving these objectives, while simultaneously generating relatively little blowback, precisely because they target individual (terrorist) leaders and cause few, if any, civilian casualties. This explains, to a significant degree, why the blowback effect in Yemen – where the overwhelming majority of drone strikes have been targeted strikes – has been less pronounced than in Pakistan and Afghanistan.7¶ Signature strikes, in contrast, can still be effective in diminishing operational, tactical and strategic enemy capabilities, but they do so to a certain degree by chance and also have a much higher probability of causing civilian casualties. Using drones for signature strikes decreases the dependence on pre-existing intelligence about particular leaders and their movements and more fully utilises their potential to carry out effective surveillance and respond to the conclusions drawn from it immediately. Signature strikes have been the predominant approach to drone usage in Pakistan and Afghanistan.8 Such strikes have had the effect of decimating the rank and file of the Taliban and their associates – but they have also caused large numbers of civilian casualties and, at a minimum, weakened the respective host governments’ legitimacy and forced them to condemn publicly, and in no uncertain terms, the infringement of their states’ sovereignty by the US. In turn, this has strained already difficult relations between countries which have more common than divergent interests when it comes to regional stability and the fight against international terrorist networks. That signature strikes have a high probability of going wrong and that such failures prove extremely counterproductive is also illustrated by a widely reported case from Yemen, in which twelve civilians were killed in the proximity of a car identified as belonging to an Al-Qa’ida member.9¶ The kind of persistent and intimidating presence of a drone policy geared towards signature strikes, and the obvious risks and consequences involved in repeatedly making wrong decisions, are both counterproductive in themselves and corrosive of efforts that seek to undercut the local support enjoyed by insurgent and terrorist networks, as well as the mutual assistance that they can offer each other. Put differently, signature strikes, in contrast to targeted killings, do anything but help to disentangle the links between insurgents and terrorists.

### Case

#### Evolution makes us/them distinctions inevitable

Thayer 2004

[Bradley, Associate Professor for the Department of Defense & Strategic Studies and a former Fellow @ the Belfer Center for Science and International Affairs at the Kennedy School of Government at Harvard University, Darwin and International Relations: On the Evolutionary Origins of War and Ethnic Conflict]

Evolutionary theory allows realists to advance offensive realist arguments without seeking an ultimate cause in either the anarchic international state system or in theological or metaphysical ideas. Realism based on evolutionary theory reaches the same conclusions, but the ultimate causal mechanism is different: human evolution in the anarchic and perilous conditions of the late-Pliocene, Pleistocene, and most of the Holocene epochs. Specially, evolutionary theory explains why humans are egoistic, strive to dominate others, and make in-group/out-group distinctions. These adaptations in turn serve as a foundation for offensive realism. The central issue here is what causes states to behave as offensive realists predict. Mearsheimer advances a powerful argument that anarchy is the fundamental cause of such behavior. The fact that there is no world government compels the leaders of states to take steps to ensure their security, such as striving to have a powerful military, aggressing when forced to do so, and forging and maintaining alliances. This is what neorealists call a self-help system: leaders of states are forced to take these steps because nothing else can guarantee their security in the anarchic world of international relations. I argue that evolutionary theory also offers a fundamental cause for offensive realist behavior. Evolutionary theory explains why individuals are motivated to act as offensive realism expects, whether an individual is a captain of industry or a conquistador. My argument is that anarchy is even more important than most scholars of international relations recognize. The human environment of evolutionary adaptation was anarchic; our ancestors lived in a state of nature in which resources were poor and dangers from other humans and the environment were great-so great that it is truly remarkable that a mammal standing three feet high-without claws or strong teeth, not particularly strong or swift-survived and evolved to become what we consider human. Humans endured because natural selection gave them the right behaviors to last in those conditions. The environment produced the behaviors examined here: egoism, domination, and the in-group/out-group distinction. These specific traits are sufficient to explain why leaders will behave, in the proper circumstances, as offensive realists expect them to behave. That is, even if they must hurt other humans or risk injury to themselves, they will strive to maximize their power, defined as either control over others (for example, through wealth or leadership) or control over ecological circumstances (such as meeting their own and their family’s or tribe’s need for food, shelter, or other resources). Evolutionary theory explains why people seek control over environmental circumstances-humans are egoistic and concerned about food-and why some, particularly males, will seek to dominate others by maintaining a privileged position in a dominance hierarchy. Clearly, as the leaders of states are human, they too will be influenced by evolutionary theory as they respond to the actions of other states and as they make their own decisions.

#### Evaluate impacts – anything else de-values the lives that are lost as a result of their ethic

Cummiskey 96 David Cummiskey, Associate Professor of Philosophy @ Bates College & a Ph.D. from UM, 1996, Kantian Consequentialism, Pg. 145-146

In the next section, I will defend this interpretation of the duty of beneficence. For the sake of argument, however, let us first simply assume that beneficence does not require significant self-sacrifice and see what follows. Although Kant is unclear on this point, we will assume that significant self-sacrifices are supererogatory. Thus, if I must harm one in order to save many, the individual whom I will harm by my action is not morally required to affirm the action. On the other hand, I have a duty to do all that I can for those in need. As a consequence **I am faced with a dilemma: If I act, I harm a person in a way that a rational being need not consent to; if I fail to act, then I do not do my duty to those in need and thereby fail to promote an objective end.** Faced with such a choice, which horn of the dilemma is more consistent with the formula of the end-in-itself? **We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract “social entity.” It is not a question of some persons having to bear the cost for some elusive “overall social good.”** Instead, **the question is whether some persons must bear the inescapable cost for the sake of other persons.** Robert Nozick, for example, argues that “**to use a person in this way does not sufficiently respect and take account of the fact that he [or she] is a separate person, that** ~~his~~ **is the only life he [or she] has.” But why is this not equally true of all those whom we do not save through our failure to act? By emphasizing solely the one who must bear the cost if we act, we fail to sufficiently respect and take account of the many other separate persons, each with only one life, who will bear the cost of our inaction.** In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? **A morally good agent recognizes that the basis of all particular duties is the principle that “rational nature exists as an end in itself.”** Rational nature as such is the supreme objective end of all conduct. **If one truly believes that all** rational beings **have an equal value then the rational solution to such a dilemma involves maximally promoting the lives and liberties of as many** rational beings **as possible**. **In order to avoid this** conclusion, **the non-consequentialist** Kantian **needs to justify agent-centered constraints.** As we saw in chapter 1, however, even most Kantian **deontologists recognize that agent-centered constraints require a non-value based rationale.** But we have seen that Kant’s normative theory is based on an unconditionally valuable end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? If the moral law is based on the value of rational beings and their ends, then what is the rationale for prohibiting a moral agent from maximally promoting these two tiers of value? **If I sacrifice some for the sake of others, I do not use them arbitrarily, and I do not deny the unconditional value of rational beings. Persons may have “dignity,** that is, **an unconditional and incomparable worth” that transcends any market value, but persons also have a fundamental equality that dictates that some must sometimes give way for the sake of others. The concept of the end-in-itself does not support the view that we may never force another to bear some cost in order to benefit others**. If on focuses on the equal value of all rational beings, then **equal consideration suggests that one may have to sacrifice some to save many**.

**TURN: View from nowhere is backwards – drones enhance the reality of warfare and increase attentiveness to human suffering**

**Brooks 12** – law professor at Georgetown University and a Schwartz senior fellow at the New America Foundation (Rosa, “What's Not Wrong With Drones?”, Sept 5, <http://www.foreignpolicy.com/articles/2012/09/05/whats_not_wrong_with_drones?page=full>, CMR)

3. Drones Turn Killing into a Video Game.¶ Writing in the Guardian, Phillip Allston (the United Nations special rapporteur on extrajudicial, summary or arbitrary executions) and Hina Shamsi of the ACLU decry "the PlayStation mentality" created by drone technologies. "Young military personnel raised on a diet of video games now kill real people remotely using joysticks. Far removed from the human consequences of their actions, how will this generation of fighters value the right to life?"¶ But **are drones more "video game-like" than**, say, **having cameras in the noses of cruise missiles**? Those old enough to remember the first Gulf War will recall the shocking novelty of images taken by cameras inside U.S. Tomahawk missiles, the jolting, grainy images in the crosshairs before everything went ominously black.¶ Regardless, **there's little evidence that drone technologies "reduce" their operators' awareness of human suffering**. **If anything, drone operators may be far more keenly aware of the suffering they help inflict than any distant sniper or bomber pilot could be**.¶ Journalist Daniel **Klaidman reports the words of one CIA drone operator, a former Air Force pilot: "I used to fly my own air missions.... I dropped bombs, hit my target load, but had no idea who I hit. [With drones], I can look at their faces... see these guys playing with their kids and wives.... After the strike, I see the bodies being carried out of the house. I see the women weeping and in positions of mourning. That's not PlayStation; that's real**."¶ **Increasingly**, **there's evidence that drone pilots,** just like combat troops, **can suffer from p**ost-**t**raumatic **s**tress **d**isorder: watching a man play with his children, then seeing his mangled body takes a psychological toll. A recent Air Force study found that 29 percent of drone pilots suffered from "burnout," with 17 percent "clinically distressed."

**Drones are good – U.S. military action *inevitable* but drones are *superior to alternatives* and *minimize civilian casualties* – solves *humanitarian intervention***

**Singh & Wittes 12** (Ritika Singh – Research Assistant, Governance Studies, AND Benjamin Wittes – Senior Fellow, Governance Studies, “Drones Are a Challenge — and an Opportunity”, Jan 11, The Cato Institute, <http://www.brookings.edu/research/opinions/2012/01/11-drones-wittes>, CMR)

Indeed, Cortright may argue that “terrorism is more a political and law enforcement challenge than a threat that can be addressed by military means,” but it is worth remembering that **the opposite of targeted killing is not usually law enforcement. It is often** less-targeted—that is, **more indiscriminate—killing**. The important flip side to Cortright’s anxiety that drones will lower our inhibition to go to war is that **drones can** also **limit the scope and scale of military action**. **The U**nited **S**tates **is not going to take a hands-off approach to states like Pakistan and Yemen**, **where law enforcement is not a feasible option**. **Drone warfare permits a highly calibrated military response to situations in which the alternative may involve** not lesser but far **greater** uses of **military violence**. This is a good trade. Conversely, **drones** also **allow militaries to contemplate** certainhumanitarian interventions **where they might never contemplate risking actual forces**; **consider** whether the recent NATO **Libya**n intervention—**which** probably **saved a considerable number of lives**—would have been politically possible had U.S. forces been seriously at risk.¶ In other words, while the rise of drone warfare has changed the face of American counterterrorism efforts and promises far greater change in years to come, this does not present the simple and terrible moral equation that Cortright describes. **What began as a surveillance tool** that could, on occasion, deliver lethal force, **has evolved in a short space of time into a principal means of following enemy forces onto territory in which the U**nited **S**tates **is reluctant to put large numbers of boots on the ground—and striking at them there in a limited fashion that protects innocent civilians** **to an unprecedented level**.¶ **The logic of these weapons is so overpowering**, both as a means of conducting surveillance and as a means of striking at enemy targets, **that their growth as an element of U.S. force will** resist **moral hand-wringing of a sort that**, if taken at face value, **would lead to greater uses of force**, civilian death, and risk to U.S. forces.

***Specifically, any* deviation from targeted killing risks terrorism – sustaining current flexibility is key**

**Groves 4/10** – Bernard and Barbara Lomas Senior Research Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation (Steven, “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad”, 2013, <http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad>, CMR)

What the U.S. Should Do¶ **The U.S. drone program and its practices regarding targeted strikes against al-Qaeda and its associated forces are lawful**. They are lawful **because the U**nited **S**tates **is currently engaged in an armed conflict with those terrorist entities** and because the United States has an inherent right to defend itself against imminent threats to its security. Moreover, the available evidence indicates that **U.S. military and intelligence forces conduct targeted strikes in a manner consistent with international law**. **Military and intelligence officials go to great lengths to identify al-Qaeda operatives that pose an imminent threat and continually reassess the level of that threat**. **Decisions on each potential target are debated among U.S. officials before the target is placed in the “disposition matrix.”** In conducting targeted strikes **U.S. forces strive to minimize civilian casualties**, although such casualties cannot always be prevented.¶ **The** **U**nited **S**tates **will continue to face asymmetric threats from non-state actors** operating from the territory of nations that are either unwilling or unable to suppress the threats. **To confront these threats,** **the U**nited **S**tates **must** retain **its most effective operational** capabilities, **including** targeted strikes by armed **drones**, even if U.S. forces degrade al-Qaeda and its associated forces to such an extent that the United States no longer considers itself to be in a non-international armed conflict. Moreover, **the U**nited **S**tates **must continue to affirm its inherent right to self-defense to eliminate threats to its national security, regardless of the presence or absence of an armed conflict recognized by international law**.¶ To that end, **the U**nited **S**tates **should**:¶ Continue to affirm existing use-of-force authorities. During the past three years, senior officials of the Obama Administration have publicly set out in significant detail U.S. policies and practices regarding drone strikes. The Administration should continue to do so, emphasizing that U.S. policies adhere to widely recognized international law. Critics of the United States will continue to claim that a lack of transparency surrounds U.S. policy and actions. Such critics will likely never be satisfied, not even with full disclosure of the relevant classified legal memoranda, and their criticism will not cease until the United States abandons its practice of targeting terrorist threats in Pakistan, Yemen, and elsewhere. However, consistent repetition of the U.S. legal position on targeted drone strikes may blunt such criticism.¶ **Not derogate from the AUMF**. At the 2012 NATO summit in Chicago, NATO agreed that the vast majority of U.S. and other NATO forces would be withdrawn from Afghanistan by the end of 2014, a time frame that President Obama confirmed during this year’s State of the Union address. Some critics of U.S. drone policy will inevitably argue that due to the drawdown the United States may no longer credibly claim that it remains in a state of armed conflict with the Taliban, al-Qaeda, and its associated forces, whether they are located in Afghanistan, the FATA, or elsewhere. **Congress should pass no legislation that could be** interpreted **as a derogation from the AUMF or an erosion of the inherent right of the** **U**nited **S**tates **to defend itself against imminent threats posed by transnational terrorist organizations**.¶ **Not create a drone court**. The concept of **a drone court is fraught with danger and may be an unconstitutional interference with the executive branch’s authority to wage war.** **U.S. armed forces have been lawfully targeting enemy combatants in armed conflicts for more than 200 years without being second-guessed** by Congress or a secret “national security court.” **Targeting decisions**, including those made in connection with drone strikes, **are carefully deliberated by military officers and intelligence officials based on facts and evidence gathered from a variety of** human, signals, and imagery **intelligence sources**. During an armed conflict, all al-Qaeda operatives are subject to targeting; therefore, **a drone court scrutinizing targeting decisions would serve no legitimate purpose.**¶ Rather than creating a special tribunal that is ill equipped to pass judgment on proportionality and military necessity, and that will never fully assuage the concerns of the critics of drone strikes, **Congress should continue to leave decisions pertaining to the disposition of al-Qaeda terrorists**—including U.S. citizens—**with military and intelligence officials**.¶ Conclusion¶ The debate within the international legal, academic, and human rights communities on the legality and propriety of drone strikes will likely continue unabated. To surrender to the demands of such critics would be equivalent to forgetting the lessons of September 11, when a small, non-state terrorist organization operating from a nation with which the United States was not at war planned and launched an attack that killed almost 3,000 Americans.¶ **The U**nited **S**tates **should preserve its ability to use all of the tools in its arsenal** **to ensure that the plots hatched by terrorist organizations do not become successful attacks on the U.S. homeland**. **Armed drones have proved to be one of the most effective and discriminating tools available to U.S. forces, and their lawful use should continue until such time as** non-state, **transnational terrorist organizations no longer present an imminent threat** to the United States.

#### Constraining targeted killing’s role in the war on terror causes extinction

Louis Rene Beres 11, Professor of Political Science and International Law at Purdue, 2011, “After Osama bin Laden: Assassination, Terrorism, War, and International Law,” Case Western Reserve Journal of International Law, 44 Case W. Res. J. Int'l L. 93

Even after the U.S. assassination of Osama bin Laden, we are still left with the problem of demonstrating that assassination can be construed, at least under certain very limited circumstances, as an appropriate instance of anticipatory self-defense. Arguably, the enhanced permissibility of anticipatory self-defense that follows generally from the growing destructiveness of current weapons technologies in rogue hands may be paralleled by the enhanced permissibility of assassination as a particular strategy of preemption. Indeed, where assassination as anticipatory self-defense may actually prevent a nuclear or other highly destructive form of warfare, reasonableness dictates that it could represent distinctly, even especially, law-enforcing behavior.

For this to be the case, a number of particular conditions would need to be satisfied. First, the assassination itself would have to be limited to the greatest extent possible to those authoritative persons in the prospective attacking state. Second, the assassination would have to conform to all of the settled rules of warfare as they concern discrimination, proportionality, and military necessity. Third, the assassination would need to follow intelligence assessments that point, beyond a reasonable doubt, to preparations for unconventional or other forms of highly destructive warfare within the intended victim's state. Fourth, the assassination would need to be founded upon carefully calculated judgments that it would, in fact, prevent the intended aggression, and that it would do so with substantially less harm [\*114] to civilian populations than would all of the alternative forms of anticipatory self-defense.

Such an argument may appear manipulative and dangerous; permitting states to engage in what is normally illegal behavior under the convenient pretext of anticipatory self-defense. Yet, any blanket prohibition of assassination under international law could produce even greater harm, compelling threatened states to resort to large-scale warfare that could otherwise be avoided. Although it would surely be the best of all possible worlds if international legal norms could always be upheld without resort to assassination as anticipatory self-defense, the persisting dynamics of a decentralized system of international law may sometimes still require extraordinary methods of law-enforcement. n71

Let us suppose, for example, that a particular state determines that another state is planning a nuclear or chemical surprise attack upon its population centers. We may suppose, also, that carefully constructed intelligence assessments reveal that the assassination of selected key figures (or, perhaps, just one leadership figure) could prevent such an attack altogether. Balancing the expected harms of the principal alternative courses of action (assassination/no surprise attack v. no assassination/surprise attack), the selection of preemptive assassination could prove reasonable, life-saving, and cost-effective.

What of another, more common form of anticipatory self-defense? Might a conventional military strike against the prospective attacker's nuclear, biological or chemical weapons launchers and/or storage sites prove even more reasonable and cost-effective? A persuasive answer inevitably depends upon the particular tactical and strategic circumstances of the moment, and on the precise way in which these particular circumstances are configured.

But it is entirely conceivable that conventional military forms of preemption would generate tangibly greater harms than assassination, and possibly with no greater defensive benefit. This suggests that assassination should not be dismissed out of hand in all circumstances as a permissible form of anticipatory self-defense under international law. [\*115]

What of those circumstances in which the threat to particular states would not involve higher-order (WMD) n72 military attacks? Could assassination also represent a permissible form of anticipatory self-defense under these circumstances? Subject to the above-stated conditions, the answer might still be "yes." The threat of chemical, biological or nuclear attack may surely enhance the legality of assassination as preemption, but it is by no means an essential precondition. A conventional military attack might still, after all, be enormously, even existentially, destructive. n73 Moreover, it could be followed, in certain circumstances, by unconventional attacks.

#### Our method is solid– it’s not a view from nowhere, but a close and accurate description of reality that incorporates situated knowledge – they have to refute our specific truth claims

Dennett 3 (Daniel, prominent American philosopher whose research centers on philosophy of mind, philosophy of science and philosophy of biology, particularly as those fields relate to evolutionary biology and cognitive science, currently the co-director of the Center for Cognitive Studies and the Austin B. Fletcher Professor of Philosophy at Tufts University, “Postmodernism and Truth”, 2-3, <http://www.butterfliesandwheels.com/articles.php>, CMR)

**We alone can be wracked with doubt, and we alone have been provoked by that epistemic itch to seek a remedy: better truth-seeking methods**. Wanting to keep better track of our food supplies, our territories, our families, our enemies, we discovered the benefits of talking it over with others, asking questions, passing on lore. We invented culture. **Then** **we invented** measuring**, and** arithmetic, and maps, and writing. **These communicative and recording innovations come with a built-in ideal:** truth**. The point of asking questions is to find** true answers**; the point of measuring is to** measure accurately; the point of making maps is to find your way to your destination. There may be an Island of the Colour-blind (allowing Oliver Sacks his usual large dose of poetic license), but no Island of the People Who Do Not Recognize Their Own Children. The Land of the Liars could exist only in philosophers' puzzles; there are no traditions of False Calendar Systems for mis-recording the passage of time. In short, the goal of truth goes without saying, in every human culture. We human beings use our communicative skills not just for truth-telling, but also for promise-making, threatening, bargaining, story-telling, entertaining, mystifying, inducing hypnotic trances, and just plain kidding around, but prince of these activities is truth-telling, and for this activity we have invented ever better tools. **Alongside our tools for agriculture, building, warfare, and transportation, we have created a technology of truth: science**. Try to draw a straight line, or a circle, "freehand." Unless you have considerable artistic talent, the result will not be impressive. **With a straight edge and a compass,** on the other hand, **you can practically** eliminate **the sources of human variability and get a** nice clean, objective result, the same every time. Is the line really straight? How straight is it? **In response to these questions, we develop ever finer tests, and then tests of the accuracy of those tests, and so forth, bootstrapping our way to ever greater accuracy and objectivity**. Scientists are just as vulnerable to wishful thinking, just as likely to be tempted by base motives, just as venal and gullible and forgetful as the rest of humankind. Scientists don't consider themselves to be saints; they don't even pretend to be priests (who according to tradition are supposed to do a better job than the rest of us at fighting off human temptation and frailty). **Scientists** take themselves to be just as weak and fallible as anybody else, but recognizing those very sources of error in themselves and in the groups to which they belong, they **have devised** elaborate systems **to** tie their own hands**, forcibly** preventing their frailties and prejudices from infecting their results. It is not just the implements, the physical tools of the trade, that are designed to be resistant to human error. The organization of methods is also under severe selection pressure for improved reliability and objectivity. The classic example is the double blind experiment, in which, for instance, neither the human subjects nor the experimenters themselves are permitted to know which subjects get the test drug and which the placebo, so that nobody's subliminal hankerings and hunches can influence the perception of the results. The statistical design of both individual experiments and suites of experiments, is then embedded in the larger practice of routine attempts at replication by independent investigators, which is further embedded in a tradition--flawed, but recognized--of publication of both positive and negative results. What inspires faith in arithmetic is the fact that hundreds of scribblers, working independently on the same problem, will all arrive at the same answer (except for those negligible few whose errors can be found and identified to the mutual satisfaction of all). This unrivalled objectivity is also found in geometry and the other branches of mathematics, which since antiquity have been the very model of certain knowledge set against the world of flux and controversy. In Plato's early dialogue, the Meno, Socrates and the slave boy work out together a special case of the Pythagorean theorem. Plato's example expresses the frank recognition of a standard of truth to be aspired to by all truth-seekers, a standard that has not only never been seriously challenged, but that has been tacitly accepted--indeed heavily relied upon, even in matters of life and death--by the most vigorous opponents of science. (Or do you know a church that keeps track of its flock, and their donations, without benefit of arithmetic?) Yes, but science almost never looks as uncontroversial, as cut-and-dried, as arithmetic. Indeed rival scientific factions often engage in propaganda battles as ferocious as anything to be found in politics, or even in religious conflict. The fury with which the defenders of scientific orthodoxy often defend their doctrines against the heretics is probably unmatched in other arenas of human rhetorical combat. These competitions for allegiance--and, of course, funding--are designed to capture attention, and being well-designed, they typically succeed. This has the side effect that the warfare on the cutting edge of any science draws attention away from the huge uncontested background, the dull metal heft of the axe that gives the cutting edge its power. What goes without saying, during these heated disagreements, is an organized, encyclopedic collection of agreed-upon, humdrum scientific fact. Robert Proctor usefully draws our attention to a distinction between neutrality and objectivity.(2) Geologists, he notes, know a lot more about oil-bearing shales than about other rocks--for the obvious economic and political reasons--but they do know objectively about oil bearing shales. And much of what they learn about oil-bearing shales can be generalized to other, less favored rocks. We want science to be objective; we should not want science to be neutral. Biologists know a lot more about the fruit-fly, Drosophila, than they do about other insects--not because you can get rich off fruit flies, but because you can get knowledge out of fruit flies easier than you can get it out of most other species. Biologists also know a lot more about mosquitoes than about other insects, and here it is because mosquitoes are more harmful to people than other species that might be much easier to study. Many are the reasons for concentrating attention in science, and they all conspire to making the paths of investigation far from neutral; they do not, in general, make those paths any less objective. Sometimes, to be sure, one bias or another leads to a violation of the canons of scientific method. Studying the pattern of a disease in men, for instance, while neglecting to gather the data on the same disease in women, is not just not neutral; it is bad science, as indefensible in scientific terms as it is in political terms. **It is true that past scientific orthodoxies have themselves inspired policies that hindsight reveals to be seriously flawed**. One can sympathize, for instance, with Ashis Nandy, editor of the passionately anti-scientific anthology, Science, Hegemony and Violence: A Requiem for Modernity, Delhi: Oxford Univ. Press, 1988. Having lived through Atoms for Peace, and the Green Revolution, to name two of the most ballyhooed scientific juggernauts that have seriously disrupted third world societies, he sees how "the adaptation in India of decades-old western technologies are advertised and purchased as great leaps forward in science, even when such adaptations turn entire disciplines or areas of knowledge into mere intellectual machines for the adaptation, replication and testing of shop-worn western models which have often been given up in the west itself as too dangerous or as ecologically non-viable." (p8) But **we should recognize this as a political misuse of science,** not as a fundamental flaw in science **itself. The methods of science** aren't foolproof, but they **are** indefinitely perfectible. Just as important: there is a tradition of criticism that enforces improvement whenever and wherever flaws are discovered. **The methods of science, like everything else under the sun, are themselves objects of scientific scrutiny, as method becomes methodology**, the analysis of methods. Methodology in turn falls under the gaze of epistemology, the investigation of investigation itself--nothing is off limits to scientific questioning**. The irony is that these fruits of scientific reflection, showing us the ineliminable smudges of imperfection, are sometimes used by those who are suspicious of science as their grounds for denying it a privileged status in the truth-seeking department-**-as if the institutions and practices they see competing with it were no worse off in these regards. But where are the examples of religious orthodoxy being simply abandoned in the face of irresistible evidence? Again and again in science, yesterday's heresies have become today's new orthodoxies. No religion exhibits that pattern in its history.

#### Their critique is self-evidently wrong—acknowledging the social context of knowledge does refute our objectivity—their authors commit the genetic fallacy.

Bauerlein 1 Mark Bauerlein, Professor of English at Emory University, 2001 (“Social Constructionism: Philosophy for the Academic Workplace,” Partisan Review, Volume LXVIII, Number 2, Available Online at http://www.bu.edu/partisanreview/archive/2001/2/bauerlein.html, Accessed 07-31-2010) CMR

One can prove the institutional nature of social constructionism by noting how easy it is to question. **The weakness of social constructionism as an epistemology lies in the fact that one can agree with the bare premise that knowledge is a construct, but** disagree **with the conclusion that objectivity is impossible and that the contents of knowledge are dependent upon the social conditions of the knower. Of course, knowledge is constructed. It must be expressed in language, composed methodically, conceived through mental views, all of which are historically derived. Constructionists extend the fact that knowledge materializes in cognitive and linguistic structures which have social determinants into the belief that knowledge has no claim to transcend them**. That knowledge cannot transcend the conditions of its origination stems from the notion that cognition is never innocent, that cognition has designs and desires shaping its knowledge-building process, that knowing always has an instrumental purpose. This human dimension is local and situational, constructionists argue, a historical context for knowledge outside of which the knowledge has no general warrant. Even the most ahistorical kinds of knowledge, the principles of logic, mathematics, and science, have a social basis, one obscured by thinkers who have abstracted that knowledge from its rightful setting and used it for purposes of their own. Thus Martin **Heidegger claims** in a well-known illustration, "**Before Newton’s laws were discovered, they were not ‘true’. . . .Through Newton the laws became true**" (Being and Time). We only think the laws preceded Newton’s conception because, Heidegger explains, that is how entities "show themselves." But even though Newton’s laws arose at a particular historical moment, in one man’s mind, why assume that the laws are inextricable from that moment? **There is** abundant evidence **for believing that the truth of Newton’s laws is independent of Newton**’s mind, language, class, education, etc. **The simple fact that persons of different languages and cultures implement those laws effectively implies their transhistorical and cross-cultural capacity. Engineers and physicists confirm the laws daily without any knowledge of Newton’s circumstances. Three hundred years of experimentation and theory have altered Newton’s laws only by restricting their physical purview. In short, Newton’s laws have been justified in vastly different times and places. Yes, scientists and engineers have de-historicized Newtonian knowledge, pared it down to a few set principles** (nobody actually reads the Principia). **But though abstract and expedient, the laws of Newtonian physics still have a truth-value, and that value is related not to Newton’s world, but to how well the laws predict outcomes, how reliably they stand up to testing, how useful they are in physical domains**. **To think otherwise is to** deny the distinction **between the contents of knowledge and the context of their emergence. This is** an old logical mistake, namely, **the genetic fallacy: the confusion of a theory’s discovery with its justification. Social constructionists overlook this distinction between discovery** (the circumstances of a theory’s origin) **and justification** (the establishment of its truth). To them, the idea of separating truth from origin depletes thought of its historical reality, and ultimately smacks of formalist methods and mandarin motives. Constructionists grant that the discovery/justification point may be logically correct, but in slighting historical context, it can lead to a kind of neglect, whereby the abstract consideration of theories like Newton’s laws allows us to forget, say, the race, class, and gender privileges that freed Newton to excogitate upon falling bodies. Epistemologists counter by saying that historical inquiry is one thing, truth-determination is another, but for scholars raised on Foucault and Rorty, the division is never so neat and clear. The history of scholarship itself reveals too many instances of ideas once thought to be true later exposed as alibis for social inequities, as having more institutional-use value than abstract-truth value. Only a punctual inventory of a theory’s historical entanglements has saved scholars from misusing the theory, from fomenting its implicit and perhaps malignant politics. That is the real animus behind social constructionist commitments–not a philosophical belief about knowledge, but a moral obligation to social justice.

#### The aff has only affirmed the situated knowledge of those who had been affected by drones, not the stories of those who have been attacked by terrorists – proves that the DA is an opportunity cost to the aff and their method is flawed

#### Their tie of the stories to a political story robs the stories of their inherent value – this means either a) their CI on topicality can’t solve their aff because it presumes a direction we think about drones or b) they have no political strategy which demonstrates Haraway doesn’t offer a way out just an explanation of what is

#### Situated Knowledge rejects IDENTITY as ordering principles – it relies upon a completely constructivist view of the world obscuring MATERIAL OPPRESSION that exists beyond language – Her situated knowledge theory also offers no hope for emancipation away from the social science model

Campbell 4 (The Promise of Feminist Reflexivities: Developing Donna Haraway's Project for Feminist Science Studies¶ Kirsten Campbell Hypatia 19.1 (2004) 162-182)

In these terms, "situated knowledges" functions as a deconstructive concept because it permits FSS to identify the limits of existing accounts of scientific knowledge. How, then, does Haraway conceive of its reconstructive elements, which would permit FSS to construct new accounts of science?¶ Haraway argues that feminist models of reflexivity need to construct their accounts of science from "the vantage points of the subjugated; there is good reason to believe that vision is better from below the brilliant space platforms of the powerful (Hartsock, 1983a; Sandoval, n.d.; Harding, 1986; and Anzaldúa, 1987)" (1991, 190-91). Following these standpoint theorists, Haraway nominates the standpoints of the subjugated as the preferred positioning from which FSS should constitute its analysis of science. She suggests that "'[s]ubjugated' standpoints are preferred because they seem to promise more adequate, sustained, objective, transforming accounts of the world" (1991, 191). It is not simply that all perspectives are partial. Some perspectives are more truthful, some standpoints more adequate, and some positions offer feminism a better and more critical vision of science. [End Page 170]¶ In this account, Haraway's concept of standpoint refers to the social position of the knower. Baukje Prins points out that "Haraway's idea of partial positioning, however, must not be confused with identity politics" (1995, 357). Haraway rejects identity epistemologies, in the sense that she emphasises the construction of the subject rather than assumes that identity is a preexisting entity (1991, 193).[13](http://muse.jhu.edu/journals/hypatia/v019/19.1campbell.html%22%20%5Cl%20%22FOOT13) Indeed, there is no singular subject of "oppositional history," but instead multiplicities of subject positions (1991, 193). Haraway rightly insists on "the impossibility of innocent 'identity' politics and epistemologies as strategies for seeing from the standpoints of the subjugated" (1991, 192). However, if Haraway's model of situated knowledges rejects identity epistemologies for FSS, it does not reject standpoint epistemologies.[14](http://muse.jhu.edu/journals/hypatia/v019/19.1campbell.html%22%20%5Cl%20%22FOOT14)¶ Haraway's standpoint reflexivity assumes that a relation exists between critical knowledge and social position. Her model contends that in a differentiated social space, different social positions will produce different knowledges. Because different knowers have different knowledges, certain social positions produce "better," that is, more accurate, descriptions of the social world. So, for example, a knower occupying a social position of subjugation will provide a more accurate knowledge of oppressive social relations. For this reason, Haraway prefers "subjugated standpoints" as the ground of feminist reflexivity, because a feminist account of science that begins from their vantage point provides a "better" or more accurate account of the constitution of scientific knowledge. Similarly, Haraway describes feminist knowledge as "a critical vision consequent upon a critical positioning in inhomogenous gendered social space" (1991, 195). In this account, feminist reflexivity as an oppositional practice relies upon "critical positioning" (193). Haraway's model founds the critical knowledge of FSS upon the position of the knower, whether it is the social position of the subjugated or the political position of the feminist. Ultimately, subject position is the ground of critical knowledge because subjective embodiment situates the subject in social space, the social situatedness of the subject determines its subject position, and subject position founds critical knowledge.¶ Haraway's model of FSS, then, founds its reflexive practice upon the "critical positioning" of the feminist knower. However, three problematic and unresolved tensions weaken the foundations of this model. First, a tension exists between the standpoint of women and the standpoint of feminists, as it does not clearly distinguish between the political position of the feminist and the social position of women (see Haraway 1991, 190-91). Haraway does not address the difference between the critical position of the feminist knower and the subjugated position of women. Either the critical knowledge of the feminist is conditional upon her differential social position as a woman or it is contingent upon her politics (rather than her position within social relations). Because Haraway does not sufficiently distinguish feminism's critical knowledge from women's subjugated [End Page 171] knowledges, her model of FSS appears to links feminist critical reflexivity to the differential social standpoint of women.¶ The linking of reflexive science studies to the different standpoints of knowers leads to a second tension in Haraway's concept of reflexivity. Haraway argues against "Western epistemological imperatives to construct a revolutionary subject from the perspective of a hierarchy of oppressions" (1991, 176), and argues that FSS needs to understand the standpoint of the subjugated in the nonessentialist terms of the complex social practices that construct it. However, Bat-Ami Bar On points out that without an adequate theory of power or sociality, "standpoint" comes to function as an outcome of the singular and unitary structures that "fix" the position of the individual knower (1993, 96). While Haraway acknowledges the multiple axes of oppression, she does not adequately theorise them except to imply that oppression exists as an effect of concrete social structure. Indeed, she does not offer an account of the sociality that produces subject positions, other than in the most general terms of "White Capitalist Patriarchy" (1991, 197).[15](http://muse.jhu.edu/journals/hypatia/v019/19.1campbell.html%22%20%5Cl%20%22FOOT15) For this reason, the standpoint of the subjugated in this model of reflexivity comes to appear as if it is an essentialist account of the subject, in which critical knowledge reflects social identity.¶ The linking of knowledge and identity points to a third tension between constructivism and empiricism in this model of reflexive FSS. Haraway follows a constructivist epistemology in her insistence that "[t]o see from below is neither easily learned nor unproblematic" because "there is no immediate vision from the standpoints of the subjugated" (1991, 191, 193). In this model, practices construct all knowledge, including that of the subjugated. However, she also assumes that that the subjugated do possess particular knowledge in the sense that their experiences apprehend a truth of the world. Critical knowledge that derives from an experience of domination is "more truthful" in its description of that domination than that which does not. It therefore permits FSS to provide a more accurate and critical account of science. However, this formulation raises the problem of whether the possibility exists of a knowledge "outside" social practices. The feminist standpoint element of Haraway's model of FSS admits to such a possibility, but the constructivist element of Haraway's model does not. Practices either construct knowledge, in which case there is no possibility of critical knowledge (constructivism), or they do not, in which case there is a possibility of critical knowledge (feminism).¶ These tensions within Haraway's reconstructive project can be seen as symptomatic of the problem of "ontological gerrymandering" (Woolgar 1993, 98). This phrase describes an epistemological position that accepts the constructivist account of knowledge, and hence the relativistic nature of all knowledge, while at the same time positing its own knowledge claims as accurate descriptions of reality, and thereby excluding its own knowledge claims from being [End Page 172] "relativist." In this position, all other knowledge claims are relativistic while one's own knowledge claims are realist and participate in an "objectivist ontology" (Woolgar 1993, 98).¶ Although Haraway offers a strategy for evading this dilemma, she does no more than suggest or sketch it. This strategy contends that if practices construct knowledge, some practices construct their object of knowledge in ways that reproduce existing systems of inequalities while others construct it in less oppressive and more liberatory ways. In this way, particular kinds of practice distinguish FSS from SSS. Haraway (1991) suggests that two practices can help FSS construct its accounts of science in terms of feminist politics. The first practice, "self-reflection," is similar to the SSS formulation of an interrogation of the practices that construct knowledge. Haraway argues that "[w]e are not immediately present to ourselves. Self-knowledge requires a semiotic-material technology linking meanings and bodies" (1991, 192). However, she does not indicate what that "semiotic-material technology" might be. The second practice she describes as "connection"—the ability of the subject to connect to other subjects (human and non-human). She suggests that "[a] scientific knower seeks the subject position not of identity, but of objectivity; that is, of partial connection" (193). This objectivity represents "the possibility of webs of connection called solidarity in politics and shared conversations in epistemology" (191). However, Haraway does not explain how to do this. Rather, she poses it as a problem: "[u]nderstanding how these visual systems work, technically, socially, and psychically ought to be a way of embodying feminist objectivity. . . . But how to see from below is a problem requiring at least as much skill with bodies and language [and] with the mediations of vision" (1991, 190-91). "Situated Knowledges," (Haraway 1991), then, offers a strategy for developing a feminist model of reflexive science studies but ultimately does not develop that model. Despite its promise, "Situated Knowledges" (1991) does not answer the science question in feminism.

#### Haraway cannot successfully break from modern science – her process of emancipation relies upon traditional assumptions of what it means to BE RATIONAL

Campbell 4 (Hypatia 19.1 (2004) 162-182The Promise of Feminist Reflexivities: Developing Donna Haraway's Project for Feminist Science Studies¶ Kirsten Campbell)

Allessandra Tanesini argues that Haraway's "Situated Knowledges" (1991) is a "transitional paper where Haraway has not freed herself from the representational model" of SSS reflexivity (1999, 180). Haraway moves from SSS reflexivity in her more recent work, "The Promises of Monsters" (1992) and Modest Witness@Second-Millennium.FemaleMan©-Meets-OncoMouse™ (1997). She develops those promising practices of reflexive knowledge and of connective politics of "Situated Knowledges" with her later formulation of a reconstructive model of FSS: "diffraction" (see Haraway 1992 and 1997). [End Page 173]¶ Diffractive Promises¶ [R]eflexivity is not enough to produce self-visibility. Strong objectivity and agential realism demand a practice of diffraction, not just reflection. Diffraction is the production of difference patterns in the world, not just of the same reflected—displaced—elsewhere.¶ —Haraway, Modest Witness¶ In "The Promises of Monsters" (1992) and Modest Witness (1997), Haraway offers a reworking of her earlier model of FSS. For Haraway (1997), "[r]eflexivity is a bad trope for escaping the false choice between realism and relativism in thinking about strong objectivity and situated knowledges in technoscientific knowledge" (16). In its place, Haraway offers a new model of "diffraction" that she hopes will produce "effects of connection, of embodiment, and of responsibility for an imagined elsewhere" (1992, 295). Her project is explicitly political and utopian. For Haraway, "the purpose of this excursion is to write theory. . . in order to find an absent, but perhaps possible, other present" (295). To write theory is to provide a contestatory reconfiguration of the present.¶ The concept of "diffraction" relies not on a model of representation but of "articulation." Unlike SSS, Haraway's model of knowledge does not understand it as a practice of representation, that is, in the sense of a subject representing an object. Rather, Haraway suggests that articulation is a practice in which we construct a relation to others—not as objects but as subjects or actants (1992, 313). These actants include human and non-human actors, ranging from the scientist in her laboratory to the genetically modified oncomouse that she creates.[16](http://muse.jhu.edu/journals/hypatia/v019/19.1campbell.html%22%20%5Cl%20%22FOOT16) Actants are not passive: "the world" is agentic and interacts with knowers. Therefore "knowing becomes a way of engaging with the world, and to understand it we must study the patterns created by interactions" (Tanesini 1999, 184).¶ If articulation is Haraway's new model of knowledge, then we can understand diffraction as her new model of the critical knowledge of FSS. She argues that her invented category of diffraction, "the production of difference patterns, might be a more useful metaphor for the needed work than reflexivity" (1997, 34). For Haraway, the critical knowledge of FSS should diffract, rather than reflect, existing patterns of technoscience. Tanesini argues that "[w]hat is of crucial important about diffraction is that it does not objectify. . . . Instead, it takes into account the effects, the interferences generated by the other" (1999, 184). Diffraction engages with the different possible patterns that interactions with others create. For Haraway, the "interference patterns" of diffraction can shift existing meanings. Diffraction is a "metaphor for the effort to make a difference in the world" (1997, 16). [End Page 174]¶ Drawing upon Latour's actor network theory (see Latour 1993), Haraway argues that "material-semiotic" practices produce networks of human and non-human actants (1992, 298). Following Latour, Haraway understands these networks as having an "artifactual social nature" because practices produce the "natural" and the "social," the "subject" and the "object," the "human" and the non-human" (1992, 313). Diffraction intervenes in existing networks of actants in order to construct new actants and new networks between them. That possibility, Haraway argues, is contingent upon producing a "differential/oppositional artifactualism" (1992, 298). For Haraway, diffraction articulates new actants—"inappropriate/d others"—that exist in different networks to those of domination. These new actants are "those who have been put in the position of objects, those who have been marginalized and usually denied the status of knowing and moral subjects" (Prins 1995, 356). However, diffraction also aims to build more powerful collectives of such actants, constructing networks of "critical, deconstructive relationality . . . as the means of making potent connection that exceeds domination" (Haraway 1992, 299). For this reason, Haraway argues that "reflexive artifactualism offers serious political and analytical hope" (295).¶ Haraway's later model of feminist critical reflexivity is the reflexive artifactualism of diffraction. Haraway suggests that "[w]hat we need is to make a difference in material-semiotic apparatuses, to diffract the rays of technoscience so that we get more promising interference patterns" (1997, 16). Diffraction is a material-semiotic technology that produces feminist accounts of science. This model of reflexive FSS suggests that it requires new "material-semiotic" practices from which to construct its accounts of science. These diffractive practices draw upon the earlier models of the reflexive knowledge and connective politics of Haraway's "Situated Knowledges" (1991).¶ In Modest Witness, Haraway describes diffraction as an oppositional practice in which we learn to think our political aims from "the analytic and imaginative standpoint" of those existing in different networks to those of domination (1997, 198). Haraway argues that "[a] standpoint is not an empiricist appeal to or by 'the oppressed' but a cognitive, psychological, and political tool for more adequate knowledge judged by the nonessentialist, historically contingent, situated standards of strong objectivity. Such a standpoint is the always fraught but necessary fruit of the practice of oppositional and differential consciousness. A feminist standpoint is a practical technology rooted in yearning, not an abstract philosophical foundation" (1997, 198-99). Therefore, FSS needs to engage with political as well as material-semiotic practice, for "feminist knowledge is rooted in imaginative connection and hard-won practical coalition" (1997, 199). Feminist standpoint involves connection and coalition, which involve "accountability to each other" and to political ideals such as "freedom and justice" (1997, 199). This model of reflexive feminist science studies proposes two foundational practices. First, the construction of the reflexive standpoint [End Page 175] of the feminist knower in the reflexive practice of oppositional and differential consciousness. Second, the constitution of feminist accounts of science in the practice of connective and coalitional feminist politics.¶ Reflexive Diffractions¶ However, Haraway does not adequately develop this model of reflexive feminist science studies. A consequence of this failure to elaborate the model of diffraction is that Haraway's current formulation of reflexive practice suffers a number of weaknesses. Central to the model of diffraction is the reflexive practice of the "oppositional and differential consciousness" of the feminist knower. Haraway describes this position of the feminist knower as being an "analytic and imaginative standpoint" (1997, 198). It is analytic because it is a position that critical analysis, reasoning, and theoretical knowledge produce. In this sense, it is an intellectual or "cognitive" practice. However, it is also an imaginative position, in which one imagines oneself in the place of the other. Therefore it is also an identificatory or "psychological" practice. Finally, that position is a political practice because the political commitments of the knower produce it.¶ Because Haraway's model collapses these three practices, it does not acknowledge the complexity of their interrelationship or the difficulty of providing an account of the production of this standpoint. For example, does a political commitment to feminism subtend an imaginative relation to other women? What practices construct these imaginative connections with others? How might FSS understand the subject that comes to occupy this standpoint, and how does she come to occupy it? It appears that Haraway does not address these questions because she conceives of a feminist standpoint as a particular position of the knowing subject rather than as an outcome of cognitive, psychological and political practices.¶ As Haraway does not elaborate how these practices construct reflexive FSS, her model of diffraction appears to found itself upon the standpoint of a subject, rather than developing an account of reflexive epistemic practices and how those practices produce a political standpoint. The reasoning of this argument is as follows: if the knower founds knowledge, then in order to produce new forms of knowledge it is necessary to produce a new knowing subject. Rather than asking what practices produce the subject, the subject becomes the foundation of new critical forms of knowledge.¶ For this reason, this model does not escape a classical rationalist model of the knower in which a conscious self founds knowledge. Haraway presents a quite conventional account of the knower as a rational and autonomous individual. This individual produces a knowledge that is not shot through with affect, emotion, and fantasy—that is, with irrationality. Its practices and its standpoint are the outcomes of rational decisions. Those complex and irrational practices[End Page 176] that attach us to our identities do not appear in this account. Accordingly, this model does not acknowledge that these phantasmic relations might also construct feminist knowledge. It is possible to see Haraway's conceptual separation of analytic and imaginative standpoints, and its concomitant emphasis upon an oppositional consciousness, as being symptomatic of this rationalist conception of the subject.¶ Similar gaps appear in Haraway's account of reflexivity as a collective practice. For example, Haraway's model contends that feminist collectivities consist of networks of affiliated actants tied together by political, not social, interests. However, FSS requires a stronger account of how those affiliations produce knowers and of the production of the coalitional and connective affiliations themselves. How does a relation to others produce a feminist knower? Is it only the rational decision of political affiliation, or are other social affiliations also at work? Which practices are feminist and which are not? These questions about the practice of feminist science studies ask how we produce difference patterns in the world.

#### Situated knowledge for drones is impossible --- failed data collection proves --- and any insight would be manipulated to eliminate drones

Foust 12 (Joshua Foust is a fellow at the American Security Project and the author of Afghanistan Journal, “Targeted Killing, Pro and Con: What to Make of U.S. Drone Strikes in Pakistan”, 9/26, <http://www.theatlantic.com/international/archive/2012/09/targeted-killing-pro-and-con-what-to-make-of-us-drone-strikes-in-pakistan/262862/>, CMR)

\*\*\*Note – their first narrative from Khalid Raheem is from the “Living Under Drones” report that our evidence indicts

A new report, "**Living Under Drones**," jointly authored by Stanford University and New York University -- and reviewed yesterday by Conor Friedersdorf here at The Atlantic -- **is harshly critical of the drone campaign** in Pakistan. The report argues that the U.S. narrative of drone strikes -- precise, accurate, and limited -- is false. **Citing 130 interviews and a review of media reports, the authors argue** that **the civilian toll** from drone strikes **is far higher than acknowledged**, that many **problems** with the drone campaign **go unreported**, and that more government transparency is essential to gaining a better understanding of the campaign and its consequences. On that last point, the authors are absolutely right -- more transparency about targeting and effects would help everyone understand the consequences of drone strikes in Pakistan. And there are absolutely serious downsides to these strikes (some of which have been explored here already). But **the report** then **makes** some **questionable claims based on** incomplete data, **and seems to argue** that **the drone campaign should be** paused **or** radically altered**. Those arguments are** not well supported. For starters, **the sample size of** the study is 130 people. **In a country of** 175 million, that **is** just not representative. 130 respondents isn't representative even of the 800,000 or so people in the Federally Administered Tribal Areas (FATA), the region of Pakistan where most drone strikes occur. Moreover, according to the report's methodology section, there is no indication of how many respondents were actual victims of drone strikes, since among those 130 they also interviewed "current and former Pakistani government officials, representatives from five major Pakistani political parties, subject matter experts, lawyers, medical professionals, development and humanitarian workers, members of civil society, academics, and journalists." The **Living Under Drones** report **has** some serious bias issues. **The authors did not conduct interviews in** the **FATA**, but Islamabad, Rawalpindi, Lahore, and Peshawar. **The direct victims they interviewed were contacted initially by** **the non-profit advocacy group Foundation for Fundamental Rights, which is** not a neutral observer (**their** explicit mission **is to** end **the use of** drones **in Pakistan**). **The report relies on a database compiled by the Bureau of Investigative Journalism, which relies on** media accounts **for most of its data**. The authors discount the utility of relying on media accounts, since media in Pakistan rely on the Pakistani government for information (reporters are not allowed independent access to the FATA). Even accepting their description of the BIJ data as the most "reliable," these data are highly suspect.

# 2NC

## CP

### Discussion Good

**Their fixation on the perspective of drone victims is a mere distraction – only debating the policy details of war power policies can create change**

**Leuckin 12** (Paul, graduate of Notre Dame, “Drones: Why Americans Shouldn't Worry About Them”, 12/29, <http://www.policymic.com/articles/21556/drones-why-americans-shouldn-t-worry-about-them>, CMR)

**Drones are merely a tool**, and **the popular focus on the tool distracts from the policy it implements**. **The most visible portion of** the **Obama** administration**'s** **counterterror**ism **strategy is its targeted killing policy**. **This policy is the real issue**, **not drones**, **and the U**nited **S**tates **doesn’t need drones to carry it out**. Manned aircraft and cruise missiles are just as capable of carrying out an airstrike. The **incessant focus on drones may have started as a lazy shorthand for the targeted killing policy, but the problem is more than semantics.** **Focus on drones and**, more generally, **fetishizing technology**, **distracts us** **from the real debate at hand**.¶ The targeted killing policy allegedly involves a loose definition determining which victims count as militants, a nominal commitment to detaining suspects when possible, and inevitable civilian casualties. **Any security policy involves trade-offs, and a public discussion whether and why these trade-offs should be accepted is sorely needed**. **Substantive discussion** **should not be sidelined** **for overblown alarmism about drones**.

#### The devils are in the details --- understanding details about policy is critical for us to better debate about the implications of unaccountable profiling and introduction of violence --- it can help us create a community of acknowledgement which is key

Hughes 2012 (Evin, Georgia Southern Univ. [Float Like a Plane, Sting Like a Bomb: The Ethics of US Drone Attacks](http://nmcenter.org/attachments/awards_pieces/19/The_Ethics_of_US_Drone_Attacks.docx) [www.ncte.org/library/NCTEFiles/About/Awards/.../Hughes\_Evin.pdf](http://www.ncte.org/library/NCTEFiles/About/Awards/.../Hughes_Evin.pdf). edited for gendered/able-ist language)

What Ali was able to do through his nonviolent rhetoric that is still relevant to this day was successfully make millions of people “bear witness” to the violence and irrationality of war. For example, say you are watching the news with a roommate and the news anchor, within her nicely lit and air conditioned studio, talks in a monotone about the deaths of civilians in a Pakistani market by a drone strike, and your roommate immediately changes the channel, not giving the terrible story another thought. Your roommate doesn’t understand the gravity of that devastation any more than the news anchor does; neither understands the significant socio-economical problems that the drone strike has caused in that area. How about the [person] sitting behind the joystick, the Nintendo-war-controller, pressing the buttons to release the Hellfire missiles like Mario firing at Bowser? Though the drone operator of all people probably knows the extent of the devastation [they are] causing, [they refuse] to think about it, [they hide] the truth from [them]selves. The drone “pilot,” the unenthusiastic anchor, your roommate—they are all complicit. Shoshana Felman, influential in raising issues connected with Holocaust testimony and what is called the “crisis of witnessing,” says that those that misunderstand or hide what they see are unable to take that information and “translate…[it]…spontaneously and simultaneously into meaning” (Felman 212). Famous psychologists Sigmund Freud and Jacques Lacan described this as disavowal—a defense mechanism in which a person refuses to recognize the reality of a traumatic perception (Evans 44). Through speeches recited on college campuses, Ali urged thousands of students to bear witness to the problems of integration and segregation, hate, and the Vietnam War. In one such speech, he links the violence in Vietnam caused by the war to the violence in the states; he stated that he would rather fight what was going on in a legal way. Not by war in a foreign country, but by nonviolent resistance right here in the United States. “Whatever the punishment, whatever the persecution is for standing up for my beliefs, even if it means facing machine-gun fire that day, I’ll face it…” (Hauser 187). Through 6 this speech, Ali led as example to all those students in the crowd, to all those seeing and not choosing to accept reality, to all those in disavowal. What Felman proposes is a community of [acknowledgement] ~~seeing~~: a space into which “we can bring into consciousness what is unconscious in us”—like the college auditoriums and classrooms where Ali conducted his speeches—to analyze and make sense of events as a community (Amy 67). It is the very nature of the violence of the “war on terror” that does not allow a community of [acknowledgement] ~~seeing~~. The media-attack on these countries by ingratiating news anchors take the American people and place them onto a platform where they are unable to reach a community of seeing, unable to argue the ethics of this war. We are divided, separated from the truth. Democratic representatives John Conyers, Dennis Kuncinich and many more, were calling for a truth as a community of officials when they wrote letters to the president demanding for him to publicly release the criteria on which be would elect people to be attacked by drones on his infamous kill list (Heuvel)—there has been no more coverage of the letters in the media. Unless we become conscious as a community of the truth of the violence we are creating, unless we bear witness and develop a community of seeing, we are doomed to be “locked into violences we cannot escape” (Amy 69).

## Case

### 2NC Case---Epistemology

#### Their totalizing critique of our knowledge production is rooted in paranoia that destroys effective policies

Farber and Sherry 97 [Daniel A. Farber, graduated the University of Illinois, earning his B.A. (pre-law), M.A. (sociology), and J.D. degrees, Suzanna Sherry, professor in the area of constitutional law with particular emphasis in the subject of federal courts, “Beyond All Reason: The Radical Assault on Truth in American Law”, p 166-167, <http://site.ebrary.com/lib/utdallas/Doc?id=10142242&ppg=146>]

\*\*\*we do not endorse the gendered language in this evidence

Although this paranoid mode of thought does not necessarily signify either falsity or abnormality, it does isolate radical multiculturalists from the kind of dialogue that might lead them to modify their views. For paranoids can be difficult patients to treat— any overtures are interpreted as hostile, and their ideas are impossible to refute. Radical multiculturalists tend to take a similar posture with respect to outsiders. **Either** the **criticism is** another **effort by** members of **the dominant group to maintain their** status and **power, or it is pandering** by members **of the oppressed** group **to the power structure**. **Even outsiders** who purport to be **sympathetic to th**e radical multiculturalist **position may be viewed with suspicion**— they may be co-opting the radical potential of the movement. Indeed, once **you take the position that truth** and merit **are masks for the exercise of power, there** really **isn't any way to consider an argument except as an** attempted **exercise of power**. So the natural response is not to ask whether the argument is valid, but instead to look for the right tactical response to the hostile move. In addition, **it becomes** almost impossible **to conceive of friendly criticism**; to admit that the critic is honestly motivated by a concern about the truth of your own position would be to concede that "truth" is something other than a mask for power. If truth and merit do not exist, concerns about the truth or merit of work by multiculturalists can only be yet another power play. 22 Moreover, as we have already discussed, radical multiculturalists, like **paranoids, can explain away any seemingly adverse evidence, because they know in advance that it cannot be valid. The paranoid knows that there is a conspiracy against him, and if there is evidence to the contrary, that only proves the power and deviousness of the conspiracy**. Similarly, the radical multiculturalist can always deconstruct any apparently contrary evidence. The research agenda, after all, is not to test whether society is irredeemably racist and sexist but to uncover precisely how society is shaped by racism and sexism. Counter-evidence only increases the challenge. The paranoid mode of thought is a threat to efforts at dialogue between radical multiculturalists and others. Combined with the selfsealing nature of social constructionism and its reliance on stock stories of oppression, it makes genuine intellectual engagement with outsiders difficult. Nevertheless, as we discuss in our "Conclusion," prospects are not utterly hopeless. Something constructive may yet emerge from the clash between the radical multiculturalists and the mainstream.

### 2NC Drones Good---AT: Aff Not a Ban

#### The affs spills-over to complete ban on drones

Anderson 13

[Kenneth, Professor of Law, Visiting Fellow, The Hoover Institution on War, Revolution and Peace, Stanford University, Member, Hoover Task Force on National Security and Law, Non-Resident Visiting Fellow, The Brookings Institution (Governance Studies), Senior Fellow, The Rift Valley Institute, “The Case for Drones”, 5/24, <http://dyn.realclearpolitics.com/printpage/?url=http://www.realclearpolitics.com/articles/2013/05/24/the_case_for_drones_118548-full.html>, CMR]

Without a hardheaded effort on the part of Congress and the executive branch to make drone policy, the efforts to discredit drones will continue. The current wide public support in the United States today should not mask the ways in which public perception and sentiment can be shifted, here and abroad. The campaign of **delegitimation is modeled on** the one against **Guantanamo** Bay during the George W. Bush administration; the British campaigning organization Reprieve tweets that it will make drones the Obama administration’s Guantanamo. Then as now, administration officials did not, or were unforgivably slow to, believe that a mere civil-society campaign could force a reset of their policies. **They** miscalculated then and, as former Bush administration officials John Bellinger and Jack Goldsmith have repeatedly warned, they **might** well **be** miscalculating now.¶ U.S. counterterrorism policy overall needs to be embedded in policies, processes, and laws that get beyond mere executive-branch discretion and bear the stamp of the two political branches coming together in tools available in a stable way across presidential administrations of both parties. We are not there now. While the critics are not wrong to call for reform of drone-warfare processes, many of them see these merely as the first step to ending drone warfare altogether. They are advocating procedural reforms not to give it a permanent and steady framework for the long run, but effectively to outlaw the practice.

#### **Deters TKs**

Jack Goldsmith, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March 2012, Power and Constraint, P. 199-201

This strategy is having an impact. The slew of lawsuits in the United States and threatened prosecutions in Europe against Bush administration officials imposes reputational, emotional, and financial costs on them that help to promote the human rights groups' ideological goals, even if courts never actually rule against the officials. By design, these suits also give pause to current officials who are considering controversial actions for fear that the same thing might later happen to them. This effect is starting to be felt with drones. Several Obama administration officials have told me that they worry targeted killings will be seen in the future (as Stafford Smith predicts) as their administration's GTMO. The attempted judicial action against Rizzo, the earlier lawsuits against top CIA officials in Pakistan and elsewhere, and the louder and louder proclamations of illegality around the world all of which have gained momentum after al-Aulaqi's killing—are also having an impact. These actions are rallying cries for protest and political pushback in the countries where the drone strikes take place. And they lead CIA operators to worry about legal exposure before becoming involved in the Agency's drone program." We don't know yet whether these forces have affected actual targeting practices and related tactics. But they induce the officials involved to take more caution. And it is only a matter of time, if it has not happened already, before they lead the U.S. government to forgo lawful targeted killing actions otherwise deemed to be in the interest of U.S. national security.

# 1NR

### Impacts

#### The president uses these vague understandings to secure his authority to do anything

Louis Fisher is Scholar in Residence at The Constitution Project. He spent four decades at the Library of Congress¶ from 1970 to 2010, ﬁrst as Senior Specialist in Separation of Powers at the Congressional Research Service and later as¶ Specialist in Constitutional Law at the Law Library.¶ “Military Operations in Libya:¶ No War? No Hostilities?” Presidential Studies Quarterly 42, no. 1 (March) 176¶ © 2012 Center for the Study of the Presidency¶ http://www.loufisher.org/docs/wplibya/Libya.Fisher.PSQ.2012.pdf

Various administrations, eager to press the limits of presidential war power, seem to¶ understand that they may not—legally and politically—use the words “war” or “hostilities.” Apparently they recognize that using words in their normal sense, as understood by¶ members of Congress, federal judges, and the general public, would acknowledge congressional preeminence. Other than repelling sudden attacks and protecting American¶ lives overseas, presidents may not take the country from a state of peace to a state or war¶ without seeking and obtaining statutory authority. To sidestep that constitutional principle, presidents have gone to great lengths to explain to Congress and the public that what they are doing is not what they are doing. When President Harry Truman went to¶ war against North Korea in 1950 without coming to Congress for authority, he described¶ the military operation as “a police action under the United Nations” (Fisher 1995, 34).¶ Other presidents, including Lyndon Johnson and Bill Clinton, have been duplicitous¶ with words and actions in their use of military force (Fisher 2011b). “Non-Kinetic” Assistance¶ In describing its military actions in Libya, the Obama administration distinguished¶ between “kinetic” and “non-kinetic” actions, with the latter apparently referring to¶ no use of military force. The March 21, 2011, letter from President Obama to Congress¶ identiﬁed particular kinetic activities. U.S. forces had “targeted the Qadhaﬁ regime’s air¶ defense systems, command and control structures, and other capabilities of Qadhaﬁ’s¶ armed forces used to attack civilians and civilian populated areas” (U.S.White House¶ 2011a). On May 20, in a letter to Congress, President Obama referred to U.S. participation that consists of “non-kinetic” support of the NATO operation. Activities not¶ directly using military force included intelligence, logistical support, and search and¶ rescue missions. The letter acknowledged continued applications of military force: “aircraft that have assisted in the suppression and destruction of air defenses in support of the¶ no-ﬂy zone” and “since April 23, precision strikes by unmanned aerial vehicles against a¶ limited set of clearly deﬁned targets in support of the NATO-led coalition’s efforts” (U.S.¶ White House 2011c, 1).¶ Seeking Support from Senate Resolution 85¶ OLC in its April 1 memo relied in part on legislative support from the Senate: “On¶ March 1, 2011, the United States Senate passed by unanimous consent Senate Resolution¶ 85. Among other things, the Resolution ‘strongly condemn[ed] the gross and systematic¶ violations of human rights in Libya, including violent attacks on protesters demanding¶ democratic reforms,’ ‘call[ed] on Muammar Gadhaﬁ to desist from further violence,’ and¶ ‘urge[d] the United Nations Security Council to take such further action as may be¶ necessary to protect civilians in Libya from attack, including the possible imposition¶ of a no-ﬂy zone over Libyan territory’ ” (U.S. Justice Department 2011, 2). Action by¶ “unanimous consent” implies that senators strongly endorsed the resolution, but the¶ legislative record provides no support for that impression. Even if there had been¶ evidence of senators involved in drafting, debating, and adopting this language, a¶ resolution passed by a single chamber contains no statutory support. Passage of Senate¶ Resolution 85 reveals little other than marginal involvement by a few senators.¶ Resolution 7 of Senate Resolution 85 urged the Security Council “to take such¶ further action as may be necessary to protect civilians in Libya from attack, including the¶ possible imposition of a no-ﬂy zone over Libyan territory.” When was this no-ﬂy language¶ added to the resolution? Were senators adequately informed of this amendment? There¶ is evidence they were not. The legislative history of Senate Resolution 85 is sparse. There¶ were no hearings or committee report. The resolution was not referred to any committee.¶ Sponsors of the resolution included ten Democrats (Bob Menendez, Frank Lautenberg,¶ Dick Durbin, Kirsten Gillibrand, Bernie Sanders, Sheldon Whitehouse, Chuck Schumer,¶ Bob Casey, Ron Wyden, and Benjamin Cardin) and one Republican (Mark Kirk).¶ There was no debate on Senate Resolution 85. It appears that the only senators on the¶ ﬂoor were Senator Schumer and the presiding ofﬁcer. Schumer asked for unanimous consent to take up the resolution. No one objected, possibly because there was no one¶ present to object. Senate “deliberation” took less than a minute. When one watches¶ Senate action on C-SPAN, consideration of the resolution began at 4:13:44 p.m. and¶ ended at 4:14:19: a total of 35 seconds. On March 30, Senator John Ensign (R-Nev.)¶ objected that Senate Resolution 85 “received the same amount of consideration that¶ a bill to name a post ofﬁce has. This legislation was hotlined” (U.S. Congress 2011b,¶ S1952). That is, Senate ofﬁces were notiﬁed by automated phone calls and e-mails of¶ pending action on the resolution, often late in the evening when few senators are present.¶ According to some Senate aides, “almost no members” knew that the no-ﬂy zone¶ language had been added to the resolution (Carroll 2011). At 4:03 p.m., through the¶ hotlined procedure, Senate ofﬁces received Senate Resolution 85 with the no-ﬂy zone¶ provision but without ﬂagging the signiﬁcant change (Carroll 2011). Senator Mike Lee¶ (R-Utah) noted, “Clearly, the process was abused. You don’t use a hotline to bait and¶ switch the country into a military conﬂict” (Carroll 2011). Senator Jeff Sessions (R-Ala.)¶ remarked, “I am also not happy at the way some resolution was passed here that seemed¶ to have authorized force in some way that nobody I know of in the Senate was aware that¶ it was in the resolution when it passed” (U.S. Congress 2011c, S2010).¶ The “Mandate” for Military Action¶ President Obama’s speech to the nation on March 28, 2011, described his Libyan¶ actions in this manner: “The United States has done what we said we would do.” His¶ reference to “the United States” did not mean the executive and legislative branches¶ working jointly. Obama alone made the military commitment. He did identify some¶ supporting political institutions: “We had a unique ability to stop the violence: an¶ international mandate to action, a broad coalition prepare to join us, the support of Arab¶ countries, and a plea for help from the Libyan people themselves” (U.S. White House¶ 2011b, 3). Absent from this picture were Congress and the American people. President¶ Obama in this speech spoke of “a plea for help from the Libyan people themselves.” He¶ offered his support “for a set of universal rights, including the freedom for people to¶ express themselves” and for governments “that are ultimately responsive to the aspirations of the people” (U.S. White House 2011b, 4). Yet throughout this period there had¶ been no effort by the president or his administration to listen to the American people or¶ secure their support.¶ On May 20, in a letter to Congress, President Obama said that he acted militarily¶ against Libya “pursuant to a request from the Arab League and authorization by the¶ United Nations Security Council” (U.S. White House 2011c, 1). Obama went beyond¶ the Security Council resolution in several ways, such as attempting regime change and¶ giving direct aid to the rebels. When the administration submitted its June 15 report to¶ Congress, it claimed that President Obama acted militarily in Libya “with a mandate¶ from the United Nations” (Boehner 2011, 1). There is only one permitted mandate under¶ the U.S. Constitution for the use of military force against another nation that has not¶ attacked or threatened the United States. That mandate must come from Congress. Senate Joint Resolution 20, introduced on June 21, 2011, was designed to authorize the use of U.S. armed forces in Libya. In two places the resolution uses the word¶ “mandate.” Security Council Resolution 1970 “mandates international economic sanctions and an arms embargo.” Security Council Resolution 1973 “mandates ‘all necessary¶ measures’ to protect civilians in Libya, implement a ‘no-ﬂy zone’, and enforce an arms¶ embargo against the Qaddaﬁ regime.” The Security Council cannot mandate, order, or¶ command the United States. Under the U.S. Constitution, mandates come from laws¶ enacted by Congress.¶ Presidential Obfuscation¶ When presidents and executive ofﬁcials attempt to defend military actions that¶ cannot be justiﬁed by talking straight, they resort to what can accurately be called¶ “double-talk.” This term may appear to be too crude and unscholarly when analyzing the¶ presidency, but its meaning ﬁts the conduct. Double-talk is deﬁned as “language used to¶ deceive, usually through concealment or misrepresentation of truth” (Merriam Webster’s¶ Collegiate Dictionary 1993, 347). Another dictionary explains that the term “appears to be¶ earnest and meaningful but in fact is a mixture of sense and nonsense.” It produces in the¶ listener “a strong suspicion that he is either hard of hearing or slowing going mad.” The¶ language is typically “inﬂated, involved, and often deliberately ambiguous” (Webster’s¶ Third New International Dictionary 1993, 679). Presidents frequently use double-talk,¶ deception, and false statements in their efforts to justify military initiatives (Fisher¶ 2010).

### We Meet

#### Restrictions are prohibitions --- the aff is distinct

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

### Substantive Impacts

#### Foundational impacts should come first

Paul Saurette, PhD Johns Hopkins, 2000 International Journal of Peace Studies 5:1

The problem of concepts -- what they are, where they are located, how we create/discover them -- has always been close to the heart of philosophy and extends deep into the sciences and social sciences.  Within IR, this concern has generally been located in the sphere of methodology and it remains crucial to the various behaviourist - positivist - empiricist - traditionalist debates.  All but the most stubborn empiricists accept that concepts influence our thinking, the validity of studies and the utility of certain perspectives. It is not surprising, then, that some of the most heated debates in the history of IR (and international law) have focused on the proper place, method and definition of certain key concepts such as sovereignty, war, human rights, anarchy, institutions, power, and international. If all concepts are equally created, however, some become represented and treated as more equal than others. There are, in fact, different layers of conceptual understanding and degrees of articulability and these render certain concepts more or less subject to question.[8](http://www.gmu.edu/academic/ijps/vol5_1/saurette.htm#Notes#Notes) In any debate, certain understandings are shared by its participants and certain concepts must be common for communication to occur.  These concepts become the foundational layer of the debate, rarely being raised for consideration, but profoundly shaping the contours of the debate.  There have been two traditionally philosophical responses to this.  The first, more familiar to mainstream IR, might be seen as the empiricist and positivist response in which the importance of this layer is minimized and its concepts represented as 'preliminary assumptions', 'term variables', or 'operative definitions' -- voluntarily accepted concepts that are hypothetically and tentatively accepted for their heuristic value.  Because many empiricists and positivists accept an understanding of language and thought as transparent and instrumental, they generally assume that, with enough effort, all of our fundamental assumptions and concepts can be clarified and their consequences known -- allowing for, if not truthful representation, then at least useful manipulation.  While this has perhaps been the prevalent view within English philosophy since the scientific revolution, a second approach, what has been called the continental tradition of philosophy, has consistently challenged these premises.  From this perspective, Kant's definition of the project of philosophy as the search for the transcendental conditions of thought and morality is the paradigmatic challenge to the English tradition of empiricism. According to Kant (and shifting him into the language of this essay), there exist certain natural preconditions -- transcendental fields -- of thought that allow us to make sense of experience.  And while some of these necessary preconditions (categories and concepts) can be traced and categorized, others, such as the constitutive and regulative Ideas, cannot be known with the same theoretical rigor.  On this view, the concepts (Ideas) of this deep layer of shared understandings (experience) are not  transparent and available to examination.  Even those we can represent cannot be manipulated and reconfigured.  Far from being heuristic devices of our own making, they are the necessary and universal conditions of possibility for any experience and understanding.